

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SINGULAR COMPUTING LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 1:19-cv-12551-FDS

Hon. F. Dennis Saylor IV

**STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
OF NO INVALIDITY BASED ON CNAPS AND GRAPE-3**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56-2, plaintiff, Singular Computing LLC (“Singular”), submits the following Statement of Undisputed Material Facts in support of its Motion for Partial Summary Judgment of No Invalidity Based on the CNAPS and GRAPE-3 Systems.

No.	Statement of Fact	Supporting Evidence
1.	Singular is the owner, by assignment of U.S. Patent No. 8,407,273 (“the ’273 patent”).	Amended Complaint, ¶¶ 27-28; U.S. Patent No. 8,407,273 (Dkt. No. 112-2)
2.	Singular is the owner, by assignment of U.S. Patent No. 9,218,156 (“the ’156 patent”).	Amended Complaint, ¶¶ 27-28; U.S. Patent No. 9,218,156 (Dkt. No. 112-3)
3	Singular asserts that defendant, Google LLC (“Google”) infringes claim 53 of the ’273 patent and claim 7 of the ’156 patent.	Amended Complaint, ¶¶ 87, 104
4.	Google asserts that the asserted claims are invalid under 35 U.S.C. §§ 102 and 103.	Answer to Amended Complaint, p. 23
5.	Google asserts that the asserted claims are obvious over the CNAPS system in view of Tong and the CNAPS system in view of Shirazi.	<i>See, e.g.</i> , Gustafson Report, ¶¶ 104, 173

No.	Statement of Fact	Supporting Evidence
6.	Google asserts that the asserted claims are anticipated by the GRAPE-3 system.	Invalidity Contention Ex. 15
7.	In his invalidity opinion based on the GRAPE-3 system, Dr. Gustafson cites to and relies upon the “Okumura ’92” and “Okumura ’93” references.	<i>See, e.g.</i> , Gustafson Report, p. 180
8.	On April 6, 2023, the Court issued a Memorandum and Order on Plaintiff’s Motion for Partial Summary Judgment of Validity Based in <i>Inter Partes</i> Review Estoppel Under 35 U.S.C. § 315(e)(2).	Dkt. No. 447
9.	At the time that Google filed its Petitions for <i>Inter Partes</i> Review Nos. IPR2021-00165 and IPR2021-00178 Google was aware of the Tong and Shirazi references.	Invalidity Contentions Exs. 3, 15
10.	At the time that Google filed its Petitions for <i>Inter Partes</i> Review Nos. IPR2021-00165 and IPR2021-00178 Google was aware of the “Okumura ’92” and “Okumura ’93” references.	Invalidity Contentions, p. 7
11.	Google is estopped from using the Tong, Shirazi, “Okumura ’92” and “Okumura ’93” references as evidence of invalidity under 35 U.S.C. §§ 102 and 103 in this case.	Memorandum and Order on Plaintiff’s Motion for Partial Summary Judgment of Validity Based in <i>Inter Partes</i> Review Estoppel Under 35 U.S.C. § 315(e)(2)
12.	There is no clear and convincing evidence that the asserted claims are obvious over the CNAPS system alone.	<i>See supra.</i>
13.	There is no clear and convincing evidence that the asserted claims are anticipated by the GRAPE-3 system alone.	<i>See supra.</i>

Dated: April 28, 2023

Respectfully submitted,

/s/ Paul J. Hayes

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ATTORNEYS FOR THE PLAINTIFF

CERTIFICATE OF SERVICE

I certify that, on April 28, 2023, all counsel of record who have consented to electronic service are being served with a copy of this documents via the Court's CM/ECF system.

/s/ Paul J. Hayes